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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,527	09/22/2003	Bradley D. Miller	45781.83588-001	9939

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EXAMINER

NGO, LIEN M

ART UNIT PAPER NUMBER

3727

DATE MAILED: 01/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

JA

Office Action Summary	Application No. 10/667,527	Applicant(s) MILLER ET AL.	
	Examiner LIEN TM NGO	Art Unit 3727	

-- Th MAILING DATE of this communication appears on the cover sheet with the corresponding address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on 22 September 2003.

2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1-29 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 1-16 and 20-29 is/are rejected.

7) ☒ Claim(s) 17-19 is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some * c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>9/22/03</u> .	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 16 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear "a hinge" in claim 16 being the same to "a hinge" in claim 8.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-6, 20 and 21 rejected under 35 U.S.C. 102(b) as being anticipated by Apps et al. (5,899,468). Apps et al. disclose, in figs. 1 and 2, a trash container comprising a lid having a top 20, a series of steps surrounding the stop, a plurality of ridges extending across the top, a frame 28 for supporting the lid a lower riser (see fig.3) being of sufficient length to substantially cover the container lip, and a hinge 44.
5. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Talor (Des. 262,325). Talor discloses, in figs 1-3, a lid having a top, a series of steps surrounding the stop, a plurality of ridges extending across the top, a frame for

Art Unit: 3727

supporting the, lid a lower riser being of sufficient length to be capable of substantially covering a container lip,

6. Claims 1-6, and 20-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Prout (Des. 381,164). Prout discloses, in figs 1and, a lid having a top, a series of steps surrounding the stop, a plurality of ridges extending across the top, a frame for supporting the, lid a lower riser being of sufficient length to be capable of substantially covering a container lip, a longitudinal ridge extending longitudinally on the top from the middle riser.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Apps et al.. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make a gap between the lower riser and the container less than ¼ inch, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. In re Aller, 105 USPQ 233.

9. Claims 7- 16 and 25-29 are ed under 35 U.S.C. 103(a) as being unpatentable over Prout et al. (Des 381, 164) in view of Prout et al (5,167,351) and further in view of

Hodge (4,520,945). Prout et al. '164 does not disclose the frame including a hinge for attaching the lid to the trash container.

Prout et al. '351 teach a hinge for attaching the lid to the trash container.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the Prout et al. '164 with a hinge in order to attach the lid to the trash container.

Prout et al. do not disclose the lid comprising a lock hole and a lock bracket.

Hodge teaches a trash container lid comprising a lock hole and a lock bracket.

Therefore, it would have been obvious to one having an ordinary skill in the art at the time the invention was made to provide comprising a lock hole and a lock bracket for the Prout container lid, as taught by Hodge, in order to provide a locking mechanism for the trash container.

In regard to claims 15 and 16, Prout et al. '351 teach a handle within the hinge integral with the frame.

Allowable Subject Matter

10. Claims 17-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LIEN TM NGO whose telephone number is 571-272-4545. The examiner can normally be reached on Monday through Friday from 8:30 AM -6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, LEE YOUNG can be reached on 571-272-4549. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LIEN TM NGO
Primary Examiner
Art Unit 3727

January 10, 2005



LIEN M. NGO
PRIMARY EXAMINER